

UNITED STATES OF AMERICA
UNITED STATES COAST GUARD vs.
MERCHANT MARINER'S DOCUMENT NO. Z-794128-D3
Issued to: William Walter BARTLOW

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

2130

William Walter BARTLOW

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code Federal Regulation 5.30-1.

By order dated 28 July 1977, an Administrative Law Judge of the United States Coast Guard at Wilmington, North Carolina, admonished Appellant upon finding him guilty of misconduct. The specification found proved alleges that while serving as a steward utility on board SS AMERICAN RANGER under authority of the document above captioned, on or about 20 June 1977, Appellant wrongfully used abusive and profane language toward the vessel's First Assistant Engineer, Joseph Czarnecki. A second specification that Appellant wrongfully assaulted the First Assistant Engineer by brandishing his fist in a threatening manner and offering to inflict bodily harm was found not proved.

At the hearing, Appellant was represented by counsel and entered a plea of not guilty to the charge and each specification.

The Investigating Officer introduced in evidence relevant extracts of the ship's log, and the testimony of Joseph Czarnecki and Lawrence J. Grembocki.

In defense, Appellant offered in evidence the testimony of Arval Cooper and Mr. Cooper's written statement of the incident. Appellant also testified on his own behalf.

At the end of the hearing, the Judge rendered an oral decision in which he concluded that the charge and one specification had been proved. He then entered an order admonishing Appellant.

The entire decision was served on 5 August 1977. Appeal was timely filed on 25 August 1977 and perfected on 7 December 1977.

FINDINGS OF FACT

On June 1977, Appellant was serving as steward utility on board the United States SS AMERICAN RANGER and acting under authority of his document while the ship was at sea. For

approximately two days prior to 20 June 1977, AMERICAN RANGER had problems with its water and sewer systems, with some clogging in the sinks and showers of four rooms, one of them occupied by Appellant. On 20 June 1977, the vessel's First Assistant Engineer, Joseph Czarnecki, with deck engine mechanic Lawrence J. Grembocki, entered Appellant's room in an attempt to locate and correct the source of the trouble. When Appellant found Mr. Grembocki and Mr. Czarnecki in his room, working on his stopped-up shower, he used abusive and profane language towards them because of their presence in his quarters and in ordering them to leave.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Administrative Law Judge. It is contended that the language used by Appellant was not directed toward the First Assistant Engineer because there were two people in Appellant's room at the time of the incident, and Appellant did not call anyone's name in particular.

APPEARANCE: At the hearing: David R. Whitten, Whitt and Whitten, Wilmington, N.C., On appeal: pro se.

OPINION

Appellant's basic contention is that he did not direct the abusive and profane language toward a licensed officer because there were two persons in the cabin in addition to himself, only one of whom was an officer. On the contrary, there is ample evidence in the record to support the conclusion that Appellant was addressing his remarks to both individuals. Moreover, several days after the incident Appellant offered the officer an apology for his behavior. Appellant's testimony regarding the apology serves to corroborate the other evidence introduced at the hearing.

CONCLUSION

I conclude that there is substantial evidence of a reliable and probative nature to support to the Administrative Law Judge's finding that Appellant wrongfully used abusive profane language toward the First Assistant Engineer.

ORDER

The order of the Administrative Law Judge dated at Norfolk, Virginia, on 5 August 1977, is AFFIRMED.

R.H. SCARBOROUGH
Vice Admiral, U. S. Coast Guard
ACTING COMMANDANT

Signed at Washington, D.C., this 28th day of July 1978.

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Evidence

substantial, sufficient for findings

Language, profane and abusive

directed to officer

Officer

abusive language directed to